



**APPLICANT:** Pinnacle Homes of the South, LLC

**PHONE#:** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

**REPRESENTATIVE:** John H. Moore

**PHONE#:** (770) 429-1499 **EMAIL:** jmoore@mijs.com

**TITLEHOLDER:** Morris Property Enterprises, LLC

**PROPERTY LOCATION:** Southwest side of Old Stilesboro Road,  
west of Cheatham Road  
(6375 Old Stilesboro Road).

**ACCESS TO PROPERTY:** Old Stilesboro Road

**PHYSICAL CHARACTERISTICS TO SITE:** Wooded with pond

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** R-30/ Single-family residence
- SOUTH:** PRD/ Cheatham Lakes Subdivision
- EAST:** R-30/ Pickett's Mill Elementary
- WEST:** Paulding County

**OPPOSITION:** NO. OPPOSED **PETITION NO:** \_\_\_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

**STIPULATIONS:**

**PETITION NO:** Z-35

**HEARING DATE (PC):** 04-07-15

**HEARING DATE (BOC):** 04-21-15

**PRESENT ZONING:** R-30

**PROPOSED ZONING:** R-20/OSC

**PROPOSED USE:** Single-Family Subdivision

**SIZE OF TRACT:** 22.95 acres

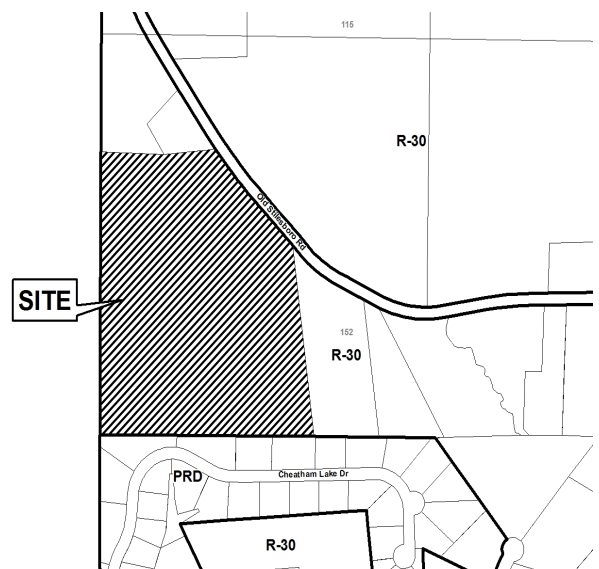
**DISTRICT:** 20

**LAND LOT(S):** 152

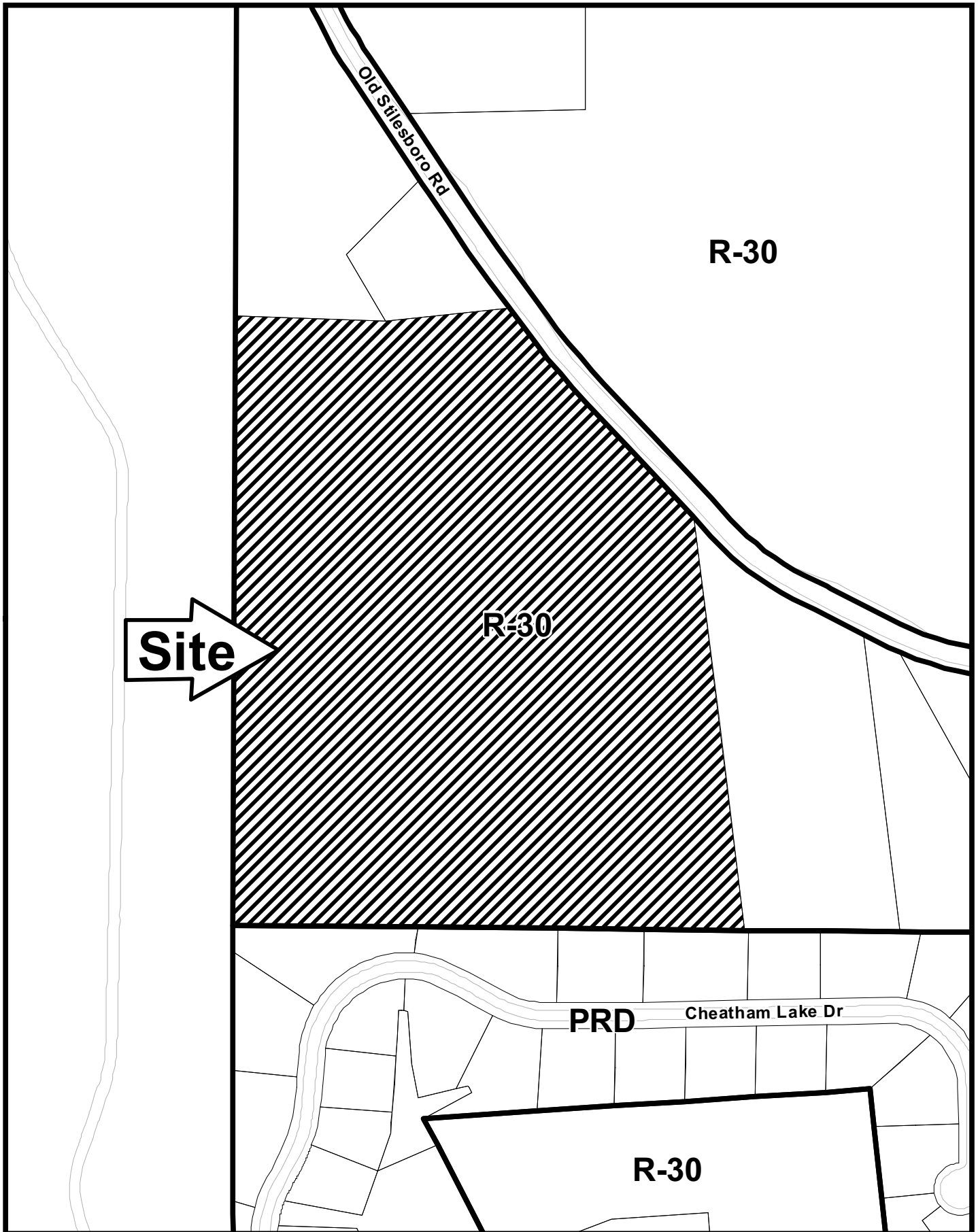
**PARCEL(S):** 5

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 1



# Z-35



This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 200 400 Feet



City Boundary  
Zoning Boundary

**APPLICANT:** Pinnacle Homes of the South, LLC

**PETITION NO.:** Z-35

**PRESENT ZONING:** R-30

**PETITION FOR:** R-20/OSC

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**ZONING COMMENTS:**

**Staff Member Responsible:** Terry Martin, MPA

**Land Use Plan Recommendation:** Rural Residential (0-1 unit per are)

**Proposed Number of Units:** 33                      **Overall Density:** 1.8                      **Units/Acre**

**Staff estimate for allowable # of units:** 20                      **Units\***                      **Increase of:** 13                      **Units/Lots**

\*Estimate could be higher or lower based on engineered plans taking into account topography, shape of property, utilities, roadways, natural features such as creeks, wetlands, etc., and other unforeseen circumstances.

The applicant is requesting a rezoning of the subject property from the existing R-30 single-family residential district to R-20/OSC single-family residential district open space community in order to develop a 33 unit neighborhood with lots ranging in size from the smallest at 12,053 square feet to the largest of 19,907 square feet. The indicated size of the property is 22.95 acres with 9.84 acres set aside as open space. Of the 9.84 acres of open space, 3.25 acres are indicated as the area of the pond that is located on the property. As the OSC overlay code does not allow for the inclusion of floodplain, wetlands, etc. in the density calculations, deducting the 4.69 acres of floodplain (based on FEMA mapping as indicated by Stormwater Management Staff), nets the proposed density of 1.8 units per acre (upa).

While side setbacks are not indicated for all lots, the OSC code calls for the sum of the side setbacks to equal the total sum of the side setbacks of the underlying zoning district. Therefore, side setbacks should be required at 10 feet on each lot. Also, the OSC code requires rear building setbacks for exterior lots adjacent to existing neighborhoods to be equal to or greater than the rear setbacks for those adjacent lots. Therefore, while the applicant is proposing a rear 20 foot setback on those lots along the eastern perimeter along with a 20 foot wide “common area,” the Code requires a 40 foot rear setback for these lots adjacent to R-30 zoned property with an additional “undisturbed perimeter buffer or other suitable form of privacy barrier” at the rear of these exterior lots. Also, the southern side of the subject property abuts the PRD zoned Cheatham Lakes subdivision and, so, these exterior lots should have a rear 30 foot building setback as well as the same “undisturbed perimeter buffer or other suitable form of privacy barrier.”

The OSC code also states that “in no event may the maximum density with bonus exceed the maximum density recommended for the property by the county comprehensive plan and future land use map.” This property is located within an area delineated as RR rural residential and, therefore, forecasts densities of 0 to one (1) upa. While the maximum density with bonus allowed by Code for this project would be 1.92 upa as it provides more than 38.5% of open space, this number is nearly double the maximum of one (1) set out by the RR designation. Surrounding property zoned R-30 district has lot sizes appropriate for this zoning though there exists Pickett’s Mill Elementary School directly across Old Stilesboro Road from the subject property. Even though the PRD subdivision Cheatham Lakes, which was zoned in 1993, has an overall density of 1.5 upa, at the time of its consideration, the underlying future land use was Very Low Density Residential which called for 0 to two (2) upa.

**Cemetery Preservation:** No comment.

**APPLICANT:** Pinnacle Homes of the South, LLC

**PETITION NO.:** Z-35

**PRESENT ZONING:** R-30

**PETITION FOR:** R-20/OSC

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**SCHOOL COMMENTS:**

<u>Name of School</u>	<u>Enrollment</u>	<u>Capacity Status</u>	<u>Number of Portable Classrooms</u>
<u>Pickett's Mill</u>	<u>731</u>	<u>Under</u>	<u>                    </u>
<b>Elementary</b> <u>Durham</u>	<u>1,064</u>	<u>Over</u>	<u>                    </u>
<b>Middle</b> <u>Allatoona</u>	<u>1,820</u>	<u>Under</u>	<u>                    </u>

**High**

- School attendance zones are subject to revision at any time.

**Additional Comments:**

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**FIRE COMMENTS:**

**GUEST PARKING:** When projects contemplate less than 20 foot separation between units, guest parking shall be provided or the streets shall be labeled as a fire lane.



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**PRESENT ZONING:** R-30

**PETITION FOR:** R-20/OSC

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**PLANNING COMMENTS:** (Continued)

**Special Districts**

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes       No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes       No

Is this property within the Six Flags Special Service District?

Yes       No

**OSC Comments**

**Property Location:** 6375 Stilesboro Road

**Land Lot/District:** 152 / 20

**Current Zoning:** R-30

**Proposed Use:** R-20 OSC

**Total Area:** 22.95 acres

**Floodplain /Wetland Area/Cemetery:** 0 acres

**Amenity Area:** 0 acres

**Net Buildable Area:** 19.7 acres

**Base Density Allowed:** 1.75 upa

**Base Density Allowed w/Bonus:** 1.92 upa

**Proposed Lots:** 33

**Net Density:** 1.44 upa

**Future Land Use:** Rural Residential (0 to 1 upa)

**Open Space requirement:** 8.02 acres or 35%; for bonus 8.82 acres or 38.5%

**Open Space provided:** 9.84 acres or 43%

**Percentage of Open Space within Floodplain, Wetlands, & Lakes w:** 33%

**Setbacks:**

Front:

Rear:

Side Minor:

**Comments:**

1. Applicant’s rezoning proposal is not in conformity with the policy and intent of the Cobb County Comprehensive Plan, which delineates this property to be within the Rural Residential (RR) land use category, having densities range from 0-1 units per acre.
2. Need to list front, rear and side setbacks on site plan.
3. Required stream buffers are considered primary conservation areas within the OSC Ordinance and should be included within the required open space. Please take the portion of lots 25 through 29 that encroach into 25’ buffer out of the buffer area.

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**PLANNING COMMENTS:** (Continued)

- 4. Pedestrian easements shall be a minimum of 15 feet wide and provided when necessary to allow access to open space common areas for all residents. The 10' pedestrian easement should not traverse multiple individual lots. Please include any pedestrian trails/paths within common open space.
- 5. Must have Cobb Department of Transportation approved lighting plan if outdoor lighting (except individual residential lots) is proposed
- 6. A Conservation Easement must be recorded in the mandatory subdivision covenants and with Cobb Superior Court, thereby protecting the "Open Space" from development in perpetuity as owned by the mandatory Home Owners Association. The open space may also be protected via a conservation easement in favor of the county for conservation uses. Application can be acquired and submitted to the Planning Division before final plat approval.

**Recommendations:**

- 7. For all lots contiguous to commonly owned open space (lots 1 – 19), staff recommends including a deed that explains that said lots are adjacent to commonly owned Open Space and cannot be disturbed. This is to notify lot owners that there is commonly owned Open Space and it shall remain undisturbed.
- 8. Recommend fencing or some type of barrier to be installed just on the inside of commonly owned open space and not on the individual lot side of the property. This is to protect open space from land disturbance.



APPLICANT Pinnacle Homes of the South LLC

PETITION NO. Z-035

PRESENT ZONING R-30

PETITION FOR R-20 OSC

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**WATER COMMENTS:** NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development:  Yes  No

Fire Flow Test Required:  Yes  No

Size / Location of Existing Water Main(s): 6" DI / W side of Old Stilesboro Rd

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

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**SEWER COMMENTS:** NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin:  Yes  No

At Development:  Yes  No

Approximate Distance to Nearest Sewer: Approx 170' S in Cheatham Lakes S/D

Estimated Waste Generation (in G.P.D.): A D F= 5,280 Peak= 13,200

Treatment Plant: Northwest

Plant Capacity:  Available  Not Available

Line Capacity:  Available  Not Available

Projected Plant Availability:  0 - 5 years  5 - 10 years  over 10 years

Drv Sewers Required:  Yes  No

Off-site Easements Required:  Yes\*  No \*If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required:  Yes  No

Letter of Allocation issued:  Yes  No

Septic Tank Recommended by this Department:  Yes  No

Subject to Health Department Approval:  Yes  No

Additional Comments:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Little Allatoona Creek FLOOD HAZARD INFO: Zone A

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (**upstream**) (**onsite**) lake - need to keep residential buildings out of hazard.

WETLANDS:  YES  NO  POSSIBLY, NOT VERIFIED

Location: within stream buffer

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE:  YES  NO  POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (       undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - **County Review**/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: **50'**, **75'**, **100'** or **200'** each side of creek channel.

DOWNSTREAM CONDITIONS

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream - Cheatham Lake .  
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream receiving system and lake.

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**STORMWATER MANAGEMENT COMMENTS – Continued**

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill \_\_\_\_\_ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown \_\_\_\_\_
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. This parcel is located on an unnamed tributary to Little Allatoona Creek. The site is mostly wooded with a lake located on western half of the parcel. Approximately two-thirds of the site drains directly to this lake and then into the Cheatham Lake Subdivision to the south. The remainder drains directly into the Cheatham Lake Subdivision via a recorded drainage easement. Average slopes on the site range from 5 to 15 %.
2. The existing dam appears to have insufficient spillway capacity. The dam must be brought up to current County design standards.
3. As indicated in the Downstream Conditions comments, there are two existing private lakes located downstream from this site. Additional BMP's for erosion sediment controls will be required as well as pre- and post-development sediment studies.
4. The site plan will need to be revised to remove the lots from the County's 50-foot stream buffer.

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**TRANSPORTATION COMMENTS**

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Old Stilesboro Road	4000	Minor Collector	35	Cobb	60'

*Based on [2012] traffic counting data taken by Cobb County DOT*

**COMMENTS AND OBSERVATIONS**

Old Stilesboro Road is classified as a minor collector and according to the available information the existing right-of-way may meet the minimum requirements for this classification.

**RECOMMENDATIONS**

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend applicant verify that minimum right-of-way is available for Old Stilesboro Road and if it is not, recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the west side of Old Stilesboro Road, a minimum of 30' from the roadway centerline.

Recommend deceleration lane for the Old Stilesboro Road access.

Recommend curb, gutter and sidewalks along Old Stilesboro Road frontage.

Recommend sidewalks on, at least, one side of the street within subdivision.

Recommend applicant verify that minimum intersection sight distance is available for Old Stilesboro Road access and if it is not, implement remedial measures, subject to the Department's approval.

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## STAFF RECOMMENDATIONS

### **Z-35 PINNACLE HOMES OF THE SOUTH, LLC**

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is not suitable in view of the use and development of adjacent and nearby properties. Despite the exempt School, surrounding R-30 zoned properties contain lot sizes appropriate for that district. The neighboring PRD Cheatham Lakes subdivision, with an overall density of 1.5 upa has lots sizes ranging from 13,709 to 37,211. The proposal would allow a much more dense development than currently exists in the area.
- B. It is Staff's opinion that the applicant's rezoning proposal may have an adverse affect on the usability of adjacent or nearby property. The proposal is out of character with the existing development in the area and would allow for a development that is inconsistent with both the County Code and *Cobb County Comprehensive Plan*.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*. The property is delineated as being within the RR rural residential future land use category which seeks to provide for "Cobb County's lowest density housing development." It also suggests that new residential developments should "be developed in a manner that helps protect the rural character and environmentally sensitive nature of these areas." In this manner, the *Plan*, just as the Code, calls for "any area of floodplain or wetland shall be subtracted from the aggregate area of the site submitted for zoning or development prior to the calculation of residential density." Deducting the approximate 4.69 acres of floodplain and wetlands on the site, the overall proposed density is 1.8 units per acre, well over the RR category's intended 0-1 upa.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. The proposed development is out of character with surrounding residential development in both lot size and density. Also, the proposal is out of character with both the Code and *Cobb County Comprehensive Plan* in that the density of 1.8 upa far outweighs what is forecast by the these documents. This, coupled, with the necessary variances on perimeter setbacks and buffering demonstrated by the applicant's site plan serve as evidence that the proposal is not the best fit for the subject site and surrounding area.

Based on the above analysis, Staff recommends **DENIAL**.

**The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.**

April

# Summary of Intent for Rezoning\*

.....  
**Part 1. Residential Rezoning Information (attach additional information if needed)**

- a) Proposed unit square-footage(s): Minimum 2,700 square feet, and greater
- b) Proposed building architecture: Traditional
- c) Proposed selling prices(s): \$400,000, and greater
- d) List all requested variances: None known at this time

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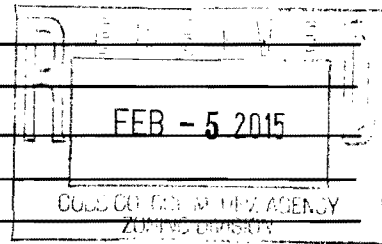
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**Part 2. Non-residential Rezoning Information (attach additional information if needed)**

- a) Proposed use(s): Not Applicable
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed hours/days of operation: \_\_\_\_\_
- d) List all requested variances: \_\_\_\_\_




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**Part 3. Other Pertinent Information (List or attach additional information if needed)**

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**Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?**  
 (Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). None known at this time.

.....  
 \*Applicant specifically reserves the right to amend any information set forth in the Summary of Intent for Rezoning, or any part of the Application for Rezoning, at any time during the rezoning process.